

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

C. LYNETTE THOMAS,

Plaintiff,

Civil No. 03-71723
Hon. John Feikens

v.

STATE OF MICHIGAN and
DAVID GARCIA, AS OAKLAND
COUNTY PROSECUTOR,

Defendants.

_____ /

OPINION AND ORDER

Plaintiff Thomas' case before this Court rests on the Indian Child Welfare Act, 25 U.S.C. §1901 et seq. This Court previously abstained from any ruling on this case because the matter, including the Indian Child Welfare Act claim, was pending in Oakland County Circuit Court and no extraordinary circumstances were present. Thomas v. Michigan, No. 03-71723 (E.D. Mich., May 20, 2003). Plaintiff has since made a motion in this case asking this Court to order the State to comply with the Indian Child Welfare Act.

On 3 November 2003, the Oakland County Circuit Court decided that the Indian Child Welfare Act did not apply in this case because the children were not members of any tribe. In re Ramos, No. 02-667570-NA, slip op. 3-4. Unless the statute in question explicitly provides otherwise, when a state court decides an issue of federal law, that decision is final and becomes res judicata; the only federal court that can overturn that decision is the United States Supreme Court. See, e.g., Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975).

Therefore, since the law of this case provides that the Indian Child Welfare Act is inapplicable, and because the Indian Child Welfare Act claims are the asserted basis for this Court's jurisdiction, I find I do not have jurisdiction in this matter. This case is therefore DISMISSED.

IT IS SO ORDERED.

John Feikens
United States District Judge

Date: _____